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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,021	07/28/2003	Yasuhiko Aoki	064731.0332 (P-269US-1)	7632

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER

TRAN, DZUNG D

ART UNIT	PAPER NUMBER
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2613

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/24/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/24/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mike.furr@bakerbotts.com
ptomail1@bakerbotts.com

Office Action Summary

Application No.

10/629,021

Applicant(s)

AOKI ET AL.

Examiner

Dzung D. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 5-12 and 15-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 13, ¹⁴ and 20 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant's election without traverse of Species 1, claims 1-4, 13, 14 and 20 in the reply filed on 02/01/2007 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 13-14 and 20 rejected under 35 U.S.C. 102(e) as being anticipated by Milton et al. U.S. Publication no. 2003/0215238.

Regarding claims 1, 13 and 20, Milton discloses in Figure 3, a node for an optical network, comprising: at least one transport element operable to be coupled to the optical network, the transport element comprising an add/drop element comprising:

a rejection filter 10 operable to split an incoming signal that comprises traffic in a plurality of sub-bands into a first signal 12 and a second signal 13, the first signal comprising the traffic in a first sub-band of traffic channels and the second signal comprising the traffic in the remaining sub-bands of traffic channels of the incoming signal;

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a bypass element (elements 10, 12) operable to:

receive the traffic in the first sub-band from the rejection filter (e.g., filter 19 receive the traffic in the first sub-band 12 from the rejection filter 10, reject the traffic in a first portion of the first sub-band (e.g., drop channels) and forward the traffic in a second portion of the first sub-band (e.g., forward the remain channels of sub-band 12 from filter 19 to filter 18) ; and

an add element (elements 11, 18) operable to:

receive the second signal 13 from the rejection filter (e.g., multiplexer 11 receive the second signal 13 from the rejection filter 10) ;

receive the traffic in the second portion of the first sub-band from the bypass element (e.g., from combiner 18); and combine the traffic in the second signal with the traffic in the second portion of the first sub-band for transport on the network (e.g., multiplexer 11 combine the traffic in the second signal 13 with the traffic in the second portion of the first sub-band (e.g., from combiner 18) for transport on the network see figure 3).

Regarding claims 2 and 14, Milton discloses in Figure 3, the bypass element is further operable to:

terminate the traffic in the rejected first portion of the first sub-band (e.g., drop channels is rejected by filter 19);

receive add traffic in the first portion of the first sub-band (e.g., add channels is combined by combiner 18); and combine the add traffic with the traffic in the second portion of the first sub-band (e.g., by multiplexer 11); and

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the add element is further operable to: receive the combined traffic from the bypass element (e.g., combiner 18 receives channels from filter 19); and combine the traffic received from the bypass element with the traffic in the second signal (e.g., receive sub-band 13) for transport on the network.

4. Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-4, 13-14 and 20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

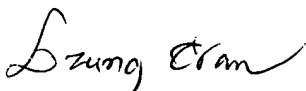
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dzung D Tran whose telephone number is (571) 272-3025. The examiner can normally be reached on 9:00 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dzung Tran
04/16/2007


DZUNG TRAN
PRIMARY PATENT EXAMINER